



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street, MC: 4920 DAL  
Dallas, Texas 75242

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date: 24 September 2009

Release Number: **201007072**  
Release Date: 2/19/10  
UIL Code: 501.03-00

LEGEND

ORG = ORGANIZATION NAME

XX - DATE ADDRESS - ADDRESS

ORG  
ADDRESS

Taxpayer identification Number:  
Person to Contact:  
Employee Identification Number:  
Contact Numbers:  
Telephone:  
Fax:

Last day for filing a pleading with the Tax  
Court, The Claims Court, or the United States  
District Court for the District Columbia:  
**December 22, 20XX**

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code ("Code"). Our favorable determination letter to you dated September 29, 19XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Organizations described in IRC §501(c)(3) and exempt under §501(a) must be organized and operated exclusively for an exempt purpose. You have not provided sufficient information regarding your expenditures, distributions, and exempt activities. You have not established that the \_\_\_\_\_ has been organized and operated exclusively for an exempt purpose, benefited a charitable class or that its non-exempt activities were insubstantial. You have failed to establish that you meet the requirements of §501(c)(3) and Treasury regulation §1.501(c)(3)-1(d) in that you have failed to provide information to establish that you were operated exclusively for an exempt purpose.

Since you have not established that you have operated exclusively for an exempt purpose, we hereby revoke your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code effective January 1, 20XX.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1120. The returns should be filed with the appropriate Service Center for the tax years ending beginning with January 1, 20XX and for all tax years thereafter in accordance with the instructions of the return. Because the statute of limitations on assessment of tax is about to expire, we are concurrently making income tax determinations with respect to your 20XX taxable year. Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia must be filed before the 91<sup>st</sup> Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

See the enclosed Publication 1546, Taxpayer Advocate Service - Your Voice at the IRS, for Taxpayer Advocate telephone numbers and addresses.

We will notify the appropriate State Officials of this action, as required by Code section 6104(c). You should contact your State officials if you have any questions about how this final determination may affect your State responsibilities and requirements.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,  
Douglas H. Shulman  
Commissioner  
By

Sunita B. Lough  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 1546

**Internal Revenue Service**

**Department of the Treasury**

Tax Exempt & Government Entities Division  
1244 Speer Blvd, Suite 442  
Denver, Colorado 80204

Date: 10/25/09

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

ORG  
ADDRESS

**Certified Mail - Return Receipt Requested**

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Renee B. Wells  
Acting Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No.
<b>ORG</b>		<b>Year/Period Ended</b> December 31, 20XX

**LEGEND**

ORG = ORGANIZATION NAME      XX = DATE      STATE = STATE      FOUNDER = FOUNDER  
 FDN-1 = 1<sup>ST</sup> FOUNDER      EMP-1 = EMP-1      CO-1 THRU CO-14 = 1<sup>ST</sup>, 2<sup>ND</sup>, 3<sup>RD</sup>, 4<sup>TH</sup>,  
 5<sup>TH</sup>, 6<sup>TH</sup>, 7<sup>TH</sup>, 8<sup>TH</sup>, 9<sup>TH</sup>, 10<sup>TH</sup>, 11<sup>TH</sup>, 12<sup>TH</sup>, 13<sup>TH</sup> & 14<sup>TH</sup> COMPANIES

**Revocation of IRC 501(c) (3) tax-exemption**

**Issue:**

Whether the IRC §501(c)(3) tax exempt status of ORG should be revoked because it is not operated exclusively for tax exempt purposes.

**Facts:**

ORG (ORG) was incorporated under the laws of the state of State as a non-profit organization on May 29, 19XX.

The organization's status as a non-profit in the state of State has been suspended, (exhibit 1)

In 19XX, the founder of the organization, Founder was doing a project in State called CO-1; the mission of that organization was to participate in selected humanitarian and charitable efforts, the organization morphed into the ORG.

ORG was set up to support educational, religious, and or scientific purposes.

In the Bylaws of ORG, it advises that the founding director shall be a director of the corporation, with the additional specific duties and powers as provided in the bylaws. The founding director shall continue in office until he submits a written resignation. The additional duties of the founding director include: the ability to designate and select all of the other directors authorized in the bylaws.

The organization lists it a summary of activities over the past two decades as (Exhibit 2):

1. The Commission of EMP-1 to sculpt a likeness of \_\_\_\_\_ in various movie roles cast in bronze. This bronze work of art has been used to honor \_\_\_\_\_ memory and raise money for such organizations as CO-2, CO-3.
2. Raise funds for the CO-4.
3. Honored individuals such as \_\_\_\_\_ for her public service, in addition to Former President \_\_\_\_\_ for his contributions to the country.
4. Produced a Montage of \_\_\_\_\_ entitled \_\_\_\_\_ which we make available to social service organizations or youth groups in need of a fundraising event.

The operational plan of the organization is outlined by the organization as (Exhibit 3):

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<b>ORG</b>		Year/Period Ended December 31, 20XX

1. Sponsor or co-sponsor approved projects in the area of interest as designated by the board of directors
2. Assist in the formation of other 501(c)(3) organizations both public and private
3. Develop long term programs to provide health and well care to the general public.
4. Construct a health and medical compound to house all approved programs, staff, and patient needs
5. Assist other organizations world wide, on a non-denominational basis, in obtaining funds for charitable causes
6. Establish a permanent endowment fund to support all approved programs.

To accomplish these operational plans the organization lists it current programs as: (Exhibit 3):

1. Co-Sponsoring an audiology research and outreach program for the hearing impaired through the CO-5.
2. Co-Sponsoring CO-7 to provide funding and research in optical enhancement for the underprivileged and elderly.
3. Co-Sponsoring of a fundraising program for CO-2 "CO-6" program.
4. Providing free public seminars on the value of estate planning in conjunction with the CO-8.

It is noted that through search of public records, The CO-5 as well as the CO-8 were both established and incorporated by FDN-1 who sits on the board of the ORG. Payments to these organizations could not be identified through the organization bank statements.

The organization sends out a flyer to perspective donors seeking partnerships with existing companies and individuals who are interested in the development of new answers to the old problems facing man as well as the new problems that will surface in the 21<sup>st</sup> century. The organization advises that there are licensing and territorial rights available that can be covered under joint venture affiliations under the following areas:

1. Construction and Development Products
  - a. Thin Ceramic cements or ceramic coatings
  - b. Tilt up panel construction (fire retardant)
  - c. Mobile home & recreation vehicle housing, pre-fab housing
  - d. Ceilings, fire proof panels
  - e. Class-A fire rated products.
2. Environmental remediation:
  - a. Microbe Technology
  - b. Water & Waste management
3. Reclamation of natural resources



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- a. Enzymes-Refineries- (oil wells) – wells
- b. Waste water cleaned to 9ppm
- c. Sewers-streams-lakes

As a part of the sponsorship and programming, ORG will assist in acquiring grants to kick start the program and ORG will receive continuing royalties from business developed. (Exhibit 4)

At its board meeting on November 14, 20XX the board was advised that the purchase of the CO-9 had been completed. The organization entered into a management agreement with CO-10 to run the plant (Exhibits 5 & 6) As Part of this agreement CO-10 entered into Partnership with CO-11 to run the day to day operations of the Organization, in addition CO-12; entered into contract with CO-11 to also operate the CO-9 company.

It is noted that through public records, Founder is Managing Director of the CO-10; and CO-12.

On July 12, 20XX; by a resolution of the board of directors, Founder was given sole discretion to execute all documents necessary to assign ownership interest in and to the CO-9, including all patents, trademarks, to the to be formed CO-13. (Exhibit 7)

On August 23, 20XX a civil Suit was filled against ORG and it Founding Director Founder by the CO-14 for breach of contract concerning the CO-9.

On February 16, 20XX judgment was entered against ORG and its Founding director for \$ in principal; \$ in attorney's fees; and \$ in court costs. On June 26, 20XX the judgment was upheld; and on November 28, 20XX Final judgment was entered against ORG for \$ for principal; \$ in attorney's fees; and \$ in Court costs. (Exhibit 8)

On the organization's 20XX 990, it reported contributions, gifts, grants and similar amounts totaling \$. In addition, a \$ tax refund was included as income. Reportable expenses for the year were broken down in the following manner \$ in Legal Fees; \$ in Supplies; \$ for Telephones; \$ for Postage; \$ for Occupancy; \$ for printing and publication; \$ for travel; \$ in bank charges; \$ in Insurance; and \$ for Auto rentals.

**Law:**

Internal Revenue Code Section 501(c)(3) provides for tax exemption to organizations operated exclusively for charitable purposes. Treas. Reg. § 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for

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the benefit of private interests such as the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

The "presence of a single [nonexempt] purpose, if substantial in nature, will destroy the exemption, regardless of the number or importance of truly [exempt] purposes." Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 283, 66 S. Ct. 112 (1945) (BBB). The operational test focuses on the actual purposes an organization's activities advance rather than the organization's stated purpose or the nature of its activities. American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989).

In Butler v. Commissioner, 36 T.C. 1097 (1961) ("Butler"), the court examined the relationship between a partner and a partnership for purposes of determining whether the partner was entitled to a business bad debt deduction for a loan he had made to the partnership that it could not repay. In holding that the partner was entitled to the bad debt deduction, the court noted that "[b]y reason of being a partner in a business, petitioner was individually engaged in business.

In Housing Pioneers v. Commissioner, 65 T.C.M. (CCH) 2191 (1993), *aff'd*, 49 F.3d 1395 (9th Cir. 1995) ("Housing Pioneers"), the Tax Court concluded that an organization did not qualify as a §501(c)(3) organization because its activities performed as co-general partner in for-profit limited partnerships substantially furthered a non-exempt purpose, and serving that purpose caused the organization to serve private interests. The organization entered into partnerships as a one percent co-general partner of existing limited partnerships for the purpose of splitting the tax benefits with the for-profit partners. Under the management agreement, the organization's authority as co-general partner was narrowly circumscribed. It had no management responsibilities and could describe only a vague charitable function of surveying tenant needs.

In Plumstead Theatre Society, Inc. v. Commissioner, 74 T.C. 1324 (1980), *aff'd*, 675 F.2d 244 (9th Cir. 1982) ("Plumstead"), the Tax Court held that a charitable organization's participation as a general partner in a limited partnership did not jeopardize its exempt status. The organization co-produced a play as one of its charitable activities. Prior to the opening of the play, the organization encountered financial difficulties in raising its share of costs. In order to meet its funding obligations, the organization formed a limited partnership in which it served as general partner, and two individuals and a for-profit corporation were the limited partners. One of the significant factors supporting the Tax Court's holding was its finding that the limited partners had no control over the organization's operations.

In est of Hawaii v. Commissioner, 71 T.C. 1067 (1979), *aff'd in unpublished opinion* 647 F.2d 170 (9th Cir. 1981) ("*est of Hawaii*"), several for-profit organizations exerted significant indirect control over est of Hawaii, a non-profit entity, through contractual arrangements. The Tax Court concluded that the for-profits were able to use the non-profit as an "instrument" to further their for-profit purposes. Neither the fact that the for-profits lacked structural control over the organization nor the fact that amounts paid to the for-profit organizations under the contracts were reasonable affected the court's conclusion. Consequently, est of Hawaii did not qualify as an organization described in §501(c)(3).

In Broadway Theatre League of Lynchburg, Virginia, Inc. v. U.S., 293 F.Supp. 346 (W.D.Va. 1968) ("Broadway Theatre League"), the court held that an organization that promoted an interest in theatrical arts did not jeopardize its exempt status when it hired a booking organization to arrange for a series of theatrical performances, promote the series and sell season tickets to the series because the contract was for a reasonable term and provided for reasonable compensation and the organization retained ultimate authority over the activities being managed.

Revenue Ruling 98-115, I.R.B. 1998-12, 6, (March 4, 1998) provides that for purposes of determining exemption under §501(c)(3), the activities of a partnership, including an LLC treated as a partnership for federal tax



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purposes, are considered to be the activities of the partners. A §501(c)(3) organization may form and participate in a partnership and meet the operational test if 1) participation in the partnership furthers a charitable purpose, and 2) the partnership arrangement permits the exempt organization to act exclusively in furtherance of its exempt purpose and only incidentally for the benefit of the for-profit partners.

#### Effective date of revocation

An organization may ordinarily rely on a favorable determination letter received from the Internal Revenue Service. Treas. Reg. §1.501(a)-1(a)(2). An organization may not rely on a favorable determination letter, however, if the organization omitted or misstated a material fact in its application or in supporting documents. In addition, an organization may not rely on a favorable determination if there is a material change, inconsistent with exemption, in the organization's character, purposes, or methods of operation after the determination letter is issued. Treas. Reg. § 601.201(n)(3)(ii); Rev. Proc. 2008-9, Section 12

The Commissioner may revoke a favorable determination letter for good cause. Treas. Reg. § 1.501(a)-1(a)(2). Revocation of a determination letter may be retroactive if the organization omitted or misstated a material fact or operated in a manner materially different from that originally represented. Treas. Reg. § 601.201(n)(6)(i), Rev. Proc. 2008-9, Section 12.

#### **Government's Position:**

The Internal Revenue Service has held for an organization to be exempt under §501(c)(3) the organization needs to meet both the organization and operational tests under Treasury Regulation §1.501(c)(3)-1(a). In addition, §501(c)(3) and Treasury Regulation §1.501(c)(3)-1(c)(2) hold that an organization shall not be exempt if any of its earnings inure to the private benefit of any of its shareholders. The organization does not meet the operational test because it is not operated exclusively for IRC §501(c)(3) purposes as required and defied by Treasury regulation §1.510(c)(3)-1(d)(1)(i), and has been used as a vehicle to serve the private interests of its members rather than public interest as prescribed under Treasury Regulation §1.510(c)(3)-1(d)(1)(ii). These tests focus on the purposes the organization promotes by means of its activities. Article II of the organizations articles provide that the purpose of the organization; "Not for private gain of any person; and the public for which is it organized include educational, religious, and or scientific purposes". However, the organization was operated in a way that would allow for joint ventures and partnerships with for-profit entities to generate substantial income which has not been distributed for charitable endeavors. The operations ended December 31, 20XX the organization was unable to provide sufficient evidence that would substantiate its charitable activities or that it had implemented an actual plan to use its share of received income to meet its current charitable objectives. This lack of substantiation caused the organization to fail the operational test under §501(3) as stated above for the 20XX and subsequent years.

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We need not, however, dwell upon the charitable aspects of ORG's charitable activities. The crucial issue is whether the purpose of the organization non-exempt activities are substantial in nature.

Section 501(c)(3) requires that the exempt organization be organized and operated exclusively for religious, charitable, etc purposes. The service has recognized that a non-exempt purpose even perhaps somewhat beyond a de minimis level is permitted without loss of exempt. Nevertheless, that is a limit beyond which the statute may not be stretched. That limit was set forth by the Supreme Court in *BBB* when it stated the presence of a single [non-exempt] purpose, if substantial in nature will destroy the exemption regardless of the number or importance of truly [exempt] activities. As in *BBB*, A review of the operations of *ORG* indicates that the organization's activities actual and proposed include at least a "single" non-exempt activity "substantial in nature."

to determine a "single" non-exempt activity that is "Substantial in nature" it first must be determined if the activities of the Joint venture between ORG and CO-10 are includable as activities includable in the determination of operated exclusively for exempt purposes within the meaning of §501(c)(3).

A §501(c)(3) organization may form and participate in a partnership, including an LLC treated as a partnership for federal income tax purposes, and meet the operational test if participation in the partnership furthers a charitable purpose, and the partnership arrangement permits the exempt organization to act exclusively in furtherance of its exempt purpose and only incidentally for the benefit of the for-profit partners. See *Plumstead* and *Housing Pioneers*. Similarly, a §501(c)(3) organization may enter into a management contract with a private party giving that party authority to conduct activities on behalf of the organization and direct the use of the organization's assets provided that the organization retains ultimate authority over the assets and activities being managed and the terms and conditions of the contract are reasonable, including reasonable compensation and a reasonable term. See *Broadway Theatre League*. However, if a private party is allowed to control or use the non-profit organization's activities or assets for the benefit of the private party, and the benefit is not incidental to the accomplishment of exempt purposes, the organization will fail to be organized and operated exclusively for exempt purposes. See *est of Hawaii*; *Harding*; §1.501(c)(3)-1(c)(1) ; and §1.501(c)(3)-1(d)(1)(ii)

For federal income tax purposes, the activities of a partnership are often considered to be the activities of the partners. See *Butler*. Aggregate treatment is also consistent with the treatment of partnerships for purpose of the unrelated business income tax under §512(c) . In light of the aggregate principle discussed in *Butler* and reflected in §512(c), the aggregate approach also applies for purposes of the operational test set forth in §1.501(c)(3)-1(c) . Thus, the activities of an LLC treated as a partnership for federal income tax purposes are considered to be the activities of a nonprofit organization that is an owner of the LLC when evaluating whether the nonprofit organization is operated exclusively for exempt purposes within the meaning of §501(c)(3).

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We must next determine if the activities of the organization serve an exempt purpose, and the activities do not inure to the private benefit of individuals over the public good.

As was the case in Housing Pioneers, the limited partnership with which ORG has agreed to associate itself with are for-profit entities; and the partnerships interests, other than ORGs are non-exempt holding companies. In addition, as was the case in Housing Pioneers; among the non-exempt owners of CO-10, and are individuals who are also the organizers and officers of ORG and even though there may be non-exempt parties not mentioned, they nonetheless stand to benefit from the activities of the partnership. Thus significant Federal income tax benefits will flow to the non-exempt partners. As such a substantial private benefit is being conveyed on individuals, of which the benefit is not incidental to the carrying on of ORGs exempt purpose.

A keystone to the organization's entire plan is its ability for ORG to use it exempt status to acquire grants to "kick-start" the ventures. As was the case in Housing Pioneers; which in that case the organization used its exempt status to receive property tax deductions for the venture. It is apparent that the incentives for the joint ventures between ORG and for-profit organizations are to provide tax incentives to business entities not to further an exempt purpose.

In addition, as in Revenue Ruling 98-15 When ORG and CO-10 formed there Joint Venture, and turned substantial control over to CO-10; ORG maintained that its activities would consist of providing sponsorship to humanitarian and environmental solutions. "While the diagnosis and cure of disease are indeed purposes that may furnish the foundation for characterizing the activity as 'charitable,' something more is required"

Continuing, Revenue Ruling 98-15; In the absence of a binding obligation in *Joint Ventures* governing documents for the *Joint Venture* to serve charitable purposes or otherwise provide its services to the community as a whole, the *Joint Venture* will be able to deny advantages to segments of the community, such as roofs for homes for the homeless. Because ORG will share control of the *Joint Venture* with CO-10, ORG will not be able to initiate programs within the *Joint Venture* to serve charitable building needs within the community without the agreement of at least one governing board member appointed by CO-10. As a business enterprise, CO-10 will not necessarily give priority to charitable building needs of the community over the consequences for the *Joint Venture*'s profits. The primary source of information for board members appointed by ORG will be the chief executives, who have a prior relationship with CO-10 and the management company, which is a subsidiary of CO-10. The management company itself will have broad discretion over the *Joint Ventures* activities and assets that may not always be under the board's supervision. For example, the management company is permitted to enter into all but "unusually large" contracts without board approval. The management company may also unilaterally renew the management agreement. Based on all these facts and circumstances, ORG cannot establish that the activities it conducts through *Joint Venture* further exempt purposes. "

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In order for an organization to qualify for exemption under §501(c)(3) the organization must 'establish' that it is neither organized nor operated for the 'benefit of private interests.' Consequently, the benefit to *CO-10* resulting from the activities *ORG* conducts through *the Joint Venture* will not be incidental to the furtherance of an exempt purpose. Thus, *ORG* will fail the operational test when it forms *the Joint Venture*, contributes its operating assets to *the Joint Venture*, and then serves as an owner of *Joint Venture*.

Based on the forgoing analysis, the government holds that *ORG* has non-exempt activities which are substantial, and that private interests are being served by its activities.

#### **Taxpayer's Position:**

The organization has no stated position.

#### **Conclusion:**

Therefore, it is the Governments position that the organization no longer meets the guidelines under Internal Revenue Code §501(c)(3) and Treasury Regulation 1.501(c)(3)-1(c), as the income of the organization inures to the personal benefit of the members, and that the activities of the organization are incidental to providing for the personal benefits of the members of the organization. Nor does the organization meet the operational test because it is not operated exclusively for IRC §501(c)(3) purposes as required and defied by Treasury regulation §1.510(c)(3)-1(d)(1)(i), and has been used as a vehicle to serve the private interests of its partners rather than public interest as prescribed under Treasury Regulation §1.510(c)(3)-1(d)(1)(ii).

It is recommended that that exempt status of this organization be Revoked as of January 1, 20XX